

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRIAN ABEL,

Plaintiff,

Case No. 19-12556

v.

Honorable Nancy G. Edmunds

TODD LYON, and
JASON QUANTON,

DefendantS.

**ORDER SUSTAINING MDOC'S EMERGENCY OBJECTION [42]
AND ISSUING TEMPORARY STAY OF MAGISTRATE JUDGE'S ORDERS
REQUIRING PRODUCTION OF ALLEGEDLY PRIVILEGED EMAILS**

This is a prisoner civil rights action brought by Plaintiff Brian Abel, who is proceeding pro se in this matter, against Correctional Officers Todd Lyon and Jason Quanton. All pretrial matters have been referred to Magistrate Judge Elizabeth Stafford under 28 U.S.C. § 636(b)(1). On July 14, 2020, Magistrate Judge Stafford entered an order granting in part Plaintiff's motion to compel compliance with subpoenas directed to the Michigan Department of Correction ("MDOC"), finding that the MDOC did not satisfy its burden of establishing that the emails requested by the subpoena are protected by attorney-client privilege and ordering their production by August 5, 2020. (Dkt. 35.) On July 28, 2020, the MDOC filed two objections to that order. (Dkt. 37.) More specifically, the MDOC objected to producing any emails protected by the attorney-client privilege and further objected to producing any emails that would jeopardize the safety and security of MDOC's prisoner-access computer system. Those objections remain pending.

On July 31, 2020, the MDOC filed an emergency motion to stay the objected-to order. (Dkt. 38.) The MDOC, noting that the Magistrate Judge's ruling remains in full force unless stayed, requested a partial stay until the Court had an opportunity to rule on the pending objections. On August 4, 2020, Magistrate Judge issued an order granting in part and denying in part MDOC's emergency motion for a stay. (Dkt. 41.) More specifically, the order allows MDOC to withhold emails that would pose a security concern if disclosed but denies the request for a stay with regard to the documents allegedly protected by attorney-client privilege. The MDOC has now filed an emergency objection to that order, asking the Court to stay the Magistrate Judge's orders, which, read together, require it to produce the emails it alleges are protected by attorney-client privilege by today. (Dkt. 42.)

Plaintiff has not yet had the opportunity to respond to the MDOC's objections to the Magistrate Judge's order granting in part his motion to compel compliance with subpoenas. In light of this and the time sensitive nature of the matter before the Court, the Court will SUSTAIN the MDOC's emergency objection. IT IS HEREBY ORDERED that the Magistrate Judge's orders requiring production of emails the MDOC alleges are protected by the attorney-client privilege are TEMPORARILY STAYED pending this Court's ruling on the objections to the Magistrate Judge's underlying order.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: August 5, 2020

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 5, 2020, by electronic and/or ordinary mail.

s/Lisa Bartlett
Case Manager